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December 21, 2021

VIA ECF

The Honorable Analisa Torres
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007-1312

Re: *Assad v. Pershing Square Tontine Holdings, Ltd., et al.*,
Case No. 21-cv-06907

Dear Judge Torres:

Plaintiff respectfully requests leave to file a sur-reply in order to address the untimely *amicus* brief filed on December 13, 2021. Plaintiff's proposed sur-reply is attached as Exhibit A. Defendants take no position Plaintiff's motion. The sur-reply responds only to the late-filed *amicus* brief.

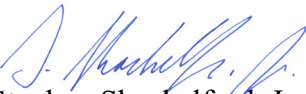
While none of the SDNY local rules or the Federal Rules of Civil Procedure addresses the submission of *amicus* briefs, "[d]istrict courts commonly seek guidance from Federal Rule of Appellate Procedure 29, which establishes standards for filing an *amicus* brief in the United States Courts of Appeals." *Sierra Club v. Fed. Emergency Mgmt. Agency*, 2007 WL 3472851, at *1 (S.D. Tex. Nov. 14, 2007). Federal Rule of Appellate Procedure 29 states that an *amicus* must file its brief "no later than 7 days after the principal brief of the party being supported is filed." Fed. R. App. P. 29(a)(6). The reason, of course, is so that the adverse party has a fair chance to respond to the arguments made by the *amici*. *Amici* here are supporting Defendants' position, and Defendants' principal briefs were filed on November 4, 2021. This would make *amici*'s brief due no later than November 11, 2021. Instead, *amici* filed their brief over one month later, well after even Plaintiff's principal brief (filed November 29, 2021).

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Fairness (and the principles underlying Rule 29) require that Plaintiff be given an opportunity to respond to the arguments raised in *amici*'s submission. *See Friends of Animals v. U.S. Fish & Wildlife Serv.*, 2021 WL 4440347, at *2 (D. Utah Sept. 28, 2021) (permitting submission of a late *amicus* brief "would necessitate granting leave for Plaintiff to file a sur-reply). Accordingly, Plaintiff respectfully requests that the Court grant leave to submit the attached sur-reply.

Respectfully submitted,



Stephen Shackelford, Jr.

cc: All counsel of record via ECF